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In re Application of :
SMITH et al. :
U.S. Application No. 09/763,392 : DECISION ON
PCT No.: PCT/AU99/00684 : PETITION UNDER
Int. Filing Date: 20 August 1999 : 37 CFR 1.47(a)
Priority Date: 20 August 1998 :
Atty. Docket No.: GRIFH 52699 :
For: GOODS/SERVICES REQUISITION AND :
SUPPLY SYSTEM :

This is a decision on applicants' "PETITION FILED UNDER 37 CFR 1.47" filed 02 October 2001 to accept the application without the signature of joint inventor Matthew Reardon. The required petition fee of \$130.00 (37 CFR 1.17(i)) has been submitted.

BACKGROUND

On 20 August 1999, applicant filed international application PCT/AU99/00684 which claimed a priority date of 20 August 1998 and which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 02 March 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 20 March 2000. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 20 February 2001.

On 20 February 2001, applicant filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); the international application; and a preliminary amendment.

On 21 March 2001, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the current oath or declaration did not comply with 37 CFR 1.497(a) and (b). The notification set a one-month time limit in which to respond.

On 02 October 2001, applicant filed the present petition and a petition for a five-month extension of time.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Items (1), (3) and (4) have been satisfied.

As to Item (2), a review of the present petition and the accompanying papers reveal that applicant has satisfied item (2), in that the applicant has shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Matthew Reardon. The steps taken are sufficient to show that the missing inventor, Matthew Reardon, has refused to execute the application.

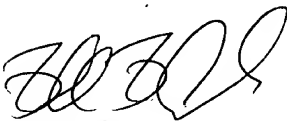
CONCLUSION

The petition under 37 CFR 1.47(a) is **GRANTED**.

The application will be given an international filing date of 20 August 1999 under 35 U.S.C. 363 and a date of 02 October 2001 under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.



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